

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

CLAUDE ANDREW THOMAS, III,

Petitioner,

v.

MARK NOOTH,

Respondent.

No. 2:13-cv-02148-SU

OPINION AND ORDER

MOSMAN, J.,

On September 19, 2016, Magistrate Judge Patricia Sullivan issued her Findings and Recommendation (“F&R”) [89], recommending that I deny Petitioner’s Motion for Evidentiary Hearing [87] and Amended Petition for Writ of Habeas Corpus [59]. Petitioner objected to the F&R [94], and Respondent responded [95].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon careful review, I agree with Judge Sullivan's recommendations and I ADOPT the F&R [89] as my own. Petitioner's Motion for Evidentiary Hearing [87] and Amended Petition for Writ of Habeas Corpus [59] are DENIED.

IT IS SO ORDERED.

DATED this 2nd day of December, 2016.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge